
FINAL
THE STATE OF MONTANA'S RESPONSES
TO PUBLIC COMMENTS ON THE 2004 DRAFT
SILVER BOW CREEK WATERSHED
RESTORATION PLAN

PREPARED BY:

STATE OF MONTANA
NATURAL RESOURCE DAMAGE PROGRAM
1301 EAST LOCKEY
P. O. BOX 201425
Helena, MT 59620-1425

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Acronyms

Advisory Council	Upper Clark Fork River Basin Remediation and Restoration Education Advisory Council
BPSOU	Butte Priority Soils Operable Unit
CTEC	Citizen's Technical Environmental Committee
EPA	U.S. Environmental Protection Agency
GGTU	George Grant Chapter of Trout Unlimited
NRDP	Natural Resource Damage Program
UCFRB	Upper Clark Fork River Basin

STATE OF MONTANA'S RESPONSES TO PUBLIC COMMENTS ON THE DECEMBER 2004 DRAFT SILVER BOW CREEK WATERSHED RESTORATION PLAN (December 2005)

Introduction

On January 7, 2005 the State of Montana released the December 2004 *Draft Silver Bow Creek Watershed Restoration Plan* (draft plan) for public comment. The State advertised the release of this plan for public comment in several newspapers in the Upper Clark Fork River Basin (UCFRB) and posted it on the Montana Natural Resource Damage Program's (NRDP) website. In addition, the State sent either copies of the plan or notices that it was available to individuals or entities that, in the past, have demonstrated a special interest in this matter. Those individuals included members of the Silver Bow Creek Ad Hoc Committee, members of the UCFRB Remediation and Restoration Education Advisory Council, and participants in the focus group meetings for the Silver Bow Creek planning effort.

The State held a public comment period on the draft plan from January 7 through March 11, 2005. Three individuals commented at a public hearing on the draft plan held in Butte on February 1, 2005. The State also received four comment letters during the public comment period. A total of five individuals, including representatives of three entities, submitted official comments during the public comment period. Appendix 1 provides summary tables on the comments and copies of the public comment letters and hearing transcripts.

This document provides the State's responses to these comments. The NRDP prepared these responses on behalf of the Trustee Restoration Council and the Governor. The Governor approved the *Final Silver Bow Creek Watershed Restoration Plan* in December 2005.

Each of the comment letters and hearing comments have been numbered and each comment has been assigned an alphabetic designation so that readers of this document can readily refer to the precise text of the various comments to which the NRDP is responding. Similar comments are listed and addressed together.¹ Under the "Category" heading, the NRDP summarizes these comments. Under the "Response" heading, the NRDP indicates what changes will be incorporated into the *Final Silver Bow Creek Watershed Restoration Plan* (final plan) as a result of public input.

In addition to seeking public comment on the draft plan, the NRDP informally solicited and obtained input from the Advisory Council, the Advisory Subcommittee and the Silver Bow Creek Ad Hoc Committee on a pre-draft version of the plan that was issued in September 2004. The majority of the input received from these entities was incorporated into the draft plan. The Advisory Subcommittee and the full Advisory Council also considered and approved a draft of this response document at their June 3, 2005 meetings.

¹ Since the comments provided by Scott Payne on behalf of CTEC at the public hearing are a summary of his written comments, specific responses are provided to the comment letter but not to the hearing comments in this response document.

CATEGORY 1: Support for the draft plan. The NRDP received two comments from Scott Payne of the Citizens Technical Environmental Committee (CTEC) and Jerry Harrington that generally support the Silver Bow Creek planning effort and the draft plan. These commenters view the plan as one that provides a reasonable framework for prioritizing restoration work and steers people towards the best restoration opportunities based on a watershed scale. They indicate their general agreement with the overall content, priorities, and technical approach presented in the restoration plan. (See letter 3A and hearing comments PH-1 and PH-2A.)

RESPONSE: The NRDP appreciates this acknowledgement of its efforts. The NRDP also appreciates the effort and input of these commenters and others in reviewing the draft plan and earlier versions of the draft plan.

CATEGORY 2: Native species information and prioritization. The NRDP received two comments from two individuals regarding the need to include new information on native fish species in the draft plan and to reprioritize certain restoration needs based on this new information. (See letters 1 and 4.)

COMMENT: Tim La Marr, a fisheries biologist with the U.S. Forest Service, recommends adding new information on trout genetics for the German Gulch, Basin Creek and Blacktail Creek, and Browns Gulch subwatershed discussions (sections 7.3.3, 7.5.3, and 7.7.3, respectively) and elevating the ranking of restoration needs #30 and #43 tied to native trout restoration in these subwatersheds. (See letter 1.)

RESPONSE: The new information will be added to the indicated sections and the ranking of the indicated restoration needs will be changed based on the sound justifications provided in Mr. La Marr's comment letter. The watershed-scale benefit for restoration need #30 involving native trout restoration in Basin and Blacktail Creeks will be elevated from "moderate" to "high." The watershed-scale benefit for restoration need #43 will be elevated from "low" to "moderate" and the local benefit will be elevated from "high" to "very high." Because of these changes, the relative rank of restoration need #30 will change to #16 and restoration need #43 will change to #23; ranking of all other restorations needs will change accordingly.

COMMENT: Pat Munday, representing the George Grant Chapter of Trout Unlimited (GGTU), requests that similar language to that provided in section 7.1.9 on Silver Bow Creek fisheries be added to section 6.6 on general watershed fishery characteristics and section 7.3.3 on the German Gulch fisheries. These additions would add emphasis to the native species restoration opportunities resulting from the geographical and physical separation between Mill/Willow and the upper watershed. (See letter 4A.)

RESPONSE: The suggested language from section 7.1.9 will be added to section 6.6, which pertains to the fisheries in the entire watershed. A reference to section 7.1.9 that notes the potential need for a fish barrier above Warm Springs Ponds will also be added to section 7.3.3, which is specific to the German Gulch fishery.

COMMENT: Pat Munday of GGTU expresses the desire for "holistic fisheries restoration" that focuses on the return of westslope cutthroat trout throughout the watershed as an indicator of successful restoration. He suggests that because cutthroat trout are arguably the

most sensitive indicator of watershed health in Silver Bow Creek, their recovery may be used as an ultimate measure of truly successful restoration. (See letter 4B.)

RESPONSE: The NRDP agrees that westslope cutthroat trout recovery may be used as an indicator of holistic and successful watershed restoration. The NRDP believes this sentiment is addressed in the consensus vision statement, which emphasizes that native species be maintained and restored where practicable. That is why restoration strategies adapted from native fisheries recovery programs were integrated throughout the *Silver Bow Creek Watershed Restoration Plan*. However, the NRDP and the consensus vision statement also recognize that native fish recovery may be economically and ecologically impractical in the entire Silver Bow Creek watershed. This recognition is echoed in the *Restoration Plan Procedures and Criteria (RPPC)* General Policy Criteria for Project Location:

Excerpt from General Policy Criteria for Project Location in the RPPC: This criterion focuses on the location of the project and the area that will benefit from the project. While the State recovered natural resource damages on behalf of all its citizens, restoration projects are to be located in the Upper Clark Fork River Basin. ...The only exception to this geographic requirement would apply to projects which are intended to restore native trout which have been injured or impaired in the UCFRB but which cannot, from a practical or economic standpoint, be restored in the UCFRB; such projects may be located in the Big Blackfoot River watershed. No work in the Big Blackfoot River watershed will be considered until there is scientific determination that...native trout restoration in the UCFRB would be uneconomical or impractical.

The recognition that native trout recovery may be uneconomical or impractical in no way diminishes the significance of westslope cutthroat trout as an indicator of holistic restoration success.

The NRDP believes native westslope cutthroat trout restoration is sufficiently emphasized in the *Silver Bow Creek Watershed Restoration Plan*. However, the document will be modified to reflect the potential for using westslope cutthroat trout recovery as an indicator of watershed health and restoration success. The following sentences will be added to section 6.6.1: “Because westslope cutthroat trout are sensitive to a variety of altered watershed conditions, the health of westslope cutthroat trout populations may serve as indicators of successful restoration to historical conditions. Consequently, recovery of westslope cutthroat trout throughout the watershed may be considered an indication of successful, holistic restoration of the entire watershed.”

CATEGORY 3: Butte Urban Area. The NRDP received three comments regarding the importance of an effective remediation of the Butte Priority Soils Operable Unit (BPSOU) and the desired coordination between remediation and restoration in the Butte area. (See letter 2B and hearing comments PH-2A and PH-3A.)

COMMENT: Jerry Harrington comments that the draft plan did not adequately focus on the specific threat of future impacts from mining contamination that may be left on the Butte Hill after remediation. He further comments on the need for optimal coordination between remediation and restoration in this area similar to that in the Silver Bow Creek corridor and Milltown reservoir. (See hearing comment PH-2B.)

COMMENT: Pat Munday, representing GGTU, agrees with Jerry Harrington's comments and expresses his concerns about environmental problems that would still exist on Butte Hill following completion of remediation. (See hearing comment PH-3A.)

COMMENT: Dr. John Ray expresses his opinion that the Environmental Protection Agency's (EPA) proposed remediation for the BPSOU is inadequate and that EPA should not be allowed to advocate a second-rate remediation plan that may require NRDP to expend restoration funds for cleanup that should have been covered by remediation. He suggests that the NRDP indicate its position on remediation in the draft plan and be pro-actively engaged with the remedy decision-making process to ensure that the most effective remedy is provided. (See letter 2B.)

RESPONSE: EPA's proposed plan for the BPSOU remedy was issued in December 2004 after completion of the draft plan. Section 2.2.2 of the *Silver Bow Creek Watershed Restoration Plan*, which includes a summary of the remedial actions conducted and planned for BPSOU, will be updated to include a summary of EPA's proposed plan. Section 7.6.7 of the draft plan, which provides a summary of the public input for the Butte area sub-watershed, will be also be updated to reflect the primary concerns reflected in the public input received during the comment period on EPA's proposed plan.

The proper venue for commenting on the proposed BPSOU remedy plan is via the public comment process on that plan. Such comments are outside the scope of the *Silver Bow Creek Watershed Restoration Plan*. The NRDP did note its position on EPA's proposed plan in a March 21, 2005 comment letter to EPA, which is available upon request.

The importance of effective remediation of BPSOU is reflected in the consensus vision statement developed to guide the *Silver Bow Creek Watershed Restoration Plan* and by the high ranking of the restoration need to effectively address sources of mining contamination in the BPSOU (#5 out of 56 ranked needs). However, the plan does not specifically recommend how contamination should be addressed in the Butte area, which may fall short of the expectations of some commenters. The reasons the plan does not go to this extent are provided in section 7.6.9 (excerpted below). It should be noted that the plan does not go to this level of specificity for any other subwatershed either.

Excerpt from section 7.6.9 - Restoration Needs: The restoration needs identified within the Butte area sub-watershed and summarized in Table 7-38 came primarily through public input rather than an evaluation by the State and its consultants of the physical condition of this sub-watershed. The EPA Superfund is currently addressing historical mining impacts in the BPSOU, which includes the majority of the Butte urban area. In addition, the NRDP has pending litigation against ARCO for injuries to surface water and groundwater resources in Butte Area One, which is a small part of BPSOU (Figure 2-3). Restoration planning efforts for areas with pending or ongoing remedial work must wait until the outcomes of remedial actions are clear. Thus, this plan does not detail potential restoration actions within the boundaries of the BSPOU. This plan will be updated as information on these pending actions becomes available. Following the Record of Decision for BPSOU, the NRDP will update its litigation claim for Butte Area One,

which will identify what additional restoration actions are necessary to return the groundwater and surface water resources in Butte Area One to a baseline condition.

The desire by the commenters and many others who participated in focus group meetings to have joint remediation and restoration planning for the Butte Hill area is noted in section 7.6.7, which summarizes public input for the Butte area subwatershed. To further emphasize the importance of coordination between remediation and restoration, the following sentence will be added to the end of the paragraph from section 7.6.9 excerpted above: “As part of this update effort, the NRDP will identify where there are opportunities for joint remediation/restoration actions.”

It should be understood, however, there is less opportunity to combine remediation and restoration actions on Butte Hill compared to Milltown and Silver Bow Creek for two reasons. First, the NRDP Butte Area One claim area is just a small part of the BPSOU site and deals only with groundwater and surface water injuries. Second, more than 200 interim remedial actions have already been implemented in the BPSOU area. These aspects of the BPSOU planning area are atypical of other operable units in the UCFRB, such as Milltown and Silver Bow Creek, making it more difficult to combine remediation and restoration design efforts.

The NRDP agrees that it is not the role of restoration to make up for an inadequate remedy and this position is accurately reflected in the following sentence excerpted from section 8.1 of the document:

Excerpt from section 8.1 - Review of Prioritization Process: While this plan does recognize the importance of pollution mitigation in the Butte area, it should be understood that the responsibility of adequately cleaning up wastes in the Butte area to levels and conditions that are protective of public health and the environment in the long-term and that meet all applicable standards is a requirement of remediation, and not a restoration responsibility.

CATEGORY 4: Relationship between the Silver Bow Creek Watershed Restoration Plan and funding decisions. The NRDP received a comment from John Ray recommending that the plan be given more weight in the funding decision making process than as proposed in the draft plan. He believes the plan should guide funding decisions and that by considering the plan as a component of only one of the many *Restoration Plan Procedures Criteria (RPPC)* evaluation criteria, funds will be misallocated. (See letter 2A.)

RESPONSE: No changes will be made to the strategy described in Chapter 9 of the draft plan for incorporating the plan into the *RPPC*. In gaining Trustee approval to develop this watershed plan, Advisory Council members insisted that this plan would not become the “driver” of funding decisions because the plan only covers a portion of the UCFRB. The NRDP agrees with this position. While the consistency of proposed projects with this plan will be evaluated under the “Ecosystems Considerations” criterion, this plan is likely to be relevant to the evaluation of other *RPPC* criteria as well, as explained in Section 9.1.2:

Excerpt from section 9.1.2 - Integration of the Silver Bow Creek Watershed Restoration Plan and the RPPC: For example, the plan identifies restoration needs for the injured Silver Bow Creek floodplain corridor that would augment remediation activities. A

project aimed at addressing these needs would likely meet the “Results of Superfund Response” criterion that gives preference to projects that coordinate with and augment ongoing or planned remedies. Similarly, the plan identifies restoration needs of importance to the public that are likely to meet the “Public Support” criterion. As another example, this plan identifies critical wildlife habitat areas that would be good targets for land acquisitions or easements. Such areas are likely to do well for the “Desirability for Public Ownership” criterion. This plan also provides information on activities in the Basin that will assist applicants in identifying opportunities for coordination and integration with other ongoing or planned actions in the watershed. Such coordinated efforts are favored under the *RPPC* “Coordination and Integration” criterion.

Consequently, the plan is somewhat redundant with respect to other *RPPC* criteria, in that projects that rank highly in the plan are likely to be favorable for several other *RPPC* criteria used to make funding decisions. This means that the restoration needs prioritized in the plan are likely to receive strong consideration through the *RPPC* process.

CATEGORY 5: Authentic restoration. The NRDP received a comment from Pat Munday of GGTU recommending that restoration planning efforts focus primarily on natural resources, not recreation. GGTU also advocates the concept of authentic restoration, which NRDP interprets as restoring rather than altering historical, natural ecological functions. This latter comment was directed primarily toward projects that would result in significant alterations to the natural, historical ecology of the watershed. (See hearing comment PH-3B.)

RESPONSE: Recreational needs and opportunities were addressed in the plan because natural resource-based public recreational services were covered under the state’s natural resource damage lawsuit and projects that will create and improve the public’s natural resource based recreational opportunities are eligible for natural resource damage funds. The quality of recreational opportunities is also tied to the quality of natural resources. Many participants in the focus group meetings indicated the desire to enhance such opportunities and the consensus vision statement reflects this desire. GGTU has even applied for natural resource damage grant funds to develop a recreational trail in lower German Gulch. The greater importance of natural resource restoration opportunities compared to recreational enhancement opportunities is reflected in the consensus vision statement and the restoration category prioritization scheme. For these reasons, no changes will be made from this comment.

Regarding GGTU’s advocacy of authentic restoration, the *RPPC* criteria also favor actual restoration. Consequently, projects that alter historical, natural ecological functions would have lower probability of being funded in comparison to projects that are considered authentic restoration.

CATEGORY 6: Document length, format, and flexibility. The NRDP received five comments from Scott Payne of CTEC, regarding the length, format, and flexibility of the draft plan. (See letters 3B, 3D, 3E, 3F, and 3R and hearing comment PH-1.)

COMMENT: Given the plan’s length, the commenter suggests having the executive summary as an independent publication and expanding the executive summary to add figures 2-3

and 8-2, selected text from sections 8.2 and 8.3 and a summary of chapters 3 and 6. (See letter 3B and hearing comment PH-1.)

RESPONSE: The executive summary was written and provided as an independent document from the draft plan and will be handled similarly in the final plan. The suggested figures will be added to the executive summary. Selected text from section 8.2 and 8.3 is already included in the executive summary. The general characteristics of the watershed provided in section 6.1 will be added to the executive summary. The NRDP does not believe a summary of chapter 3 is necessary in the executive summary because this chapter, which presents general concepts regarding watershed health, watershed planning, and restoration principles, is background in nature.

COMMENT: The commenter considers the plan to be more of a “watershed prioritization plan for NRDP implementation” than a restoration plan since it provides general restoration needs but does not provide local-scale specific information, designs, and actions. (See letter 3D and hearing comment PH-1.)

RESPONSE: The NRDP agrees with the assessment that the document indicates general restoration needs rather than proposing specific actions. The NRDP disagrees, however, with the characterization of this plan as a prioritization plan for NRDP implementation. As noted in the executive summary and in sections 1.2, 9.0, and 9.2, because of the broad-scale nature of this plan, it identifies all known restoration needs **irrespective** of funding source considerations. To help reiterate this, the plan includes table 9-1 that provides a summary of 37 other funding sources besides NRDP. No changes will be made as a result of this comment.

COMMENT: The commenter suggests expanding the document title to “Silver Bow Creek **Watershed** Restoration Plan.” (See letter 3E and hearing comment PH-1.)

RESPONSE: No change is needed as a result of this comment since this is the plan’s title.

COMMENT: The commenter suggests updating the document and adjusting restoration priorities every three to five years to account for new information, progress in the watershed, and local acceptance. (See letters 3F and 3R and hearing comment PH-1.)

RESPONSE: Section 8.5 on the limitations of the plan addresses the need for updating and adjusting this plan and suggests a 5 to 10 year review process. Section 9.1.2 addresses how the proposed integration of the plan and *RPPC* takes those limitations into consideration. There are many other references throughout the document as to how and why the plan is a “work in progress” (e.g., sections 3.4 and 8.3.1). Thus, no changes will be made from this comment.

CATEGORY 7: Silver Bow Creek watershed group and website links. Scott Payne of CTEC indicates CTEC’s interest in helping establish a local watershed group to represent the stakeholders in the Silver Bow Creek Watershed and the desire to have CTEC’s website included as a link on the NRDP website. (See letters 3G and 3H and hearing comment PH-1.)

RESPONSE: These comments are outside the scope of the plan and thus do not require any changes to the plan. At this time, the NRDP website does not include links to the varied and

numerous organizations working to restore natural resources in the UCFRB. CTEC's link would be added if a decision were made to add links to such organizations.

CATEGORY 8: Small scale projects. Scott Payne of CTEC expresses a concern that the eight planning areas, which are large hydraulically defined basins, may shadow small projects that have the potential to produce large improvements. (See letter 3K and hearing comment PH-1.)

RESPONSE: The following language in section 9.1.2 explains how the proposed process of integrating the plan with the *RPPC* adequately addresses this concern about when the plan's priorities are inconsistent with a project that may be merit funding. Thus, no changes will be made from this comment.

Excerpt from section 9.1.2 - Integration of the Silver Bow Creek Watershed Restoration Plan and the RPPC: Since the priorities established in the *Silver Bow Creek Watershed Restoration Plan* are based primarily on watershed-scale benefits, it is appropriate to consider a proposed project's consistency with this plan when evaluating the existing "Ecosystem Considerations" *RPPC* criterion that gives preference to projects that fit within a broad ecosystem context. Proposals that are consistent with this plan will typically meet this criterion better than proposals that are inconsistent with this plan. If a project is inconsistent with the plan's priorities, the project can still be considered for funding. However, the applicant will need to provide an adequate justification why the project should be funded despite this inconsistency with the *Silver Bow Creek Watershed Restoration Plan*. Inconsistency with the plan's priorities is not considered to be an outright cause for rejection of a proposal given that the plan relies in some cases on incomplete information and also because priorities can shift as remedy decisions and remedial designs are completed and litigation is resolved and as resource conditions change. An applicant may be able to provide additional information not considered in this plan and offer compelling scientific or administrative reasons for considering a proposal for funding despite its inconsistency with the plan's priorities.

Section 8.3.1 contains similar language explaining how the conclusions reached in the plan are not absolute.

CATEGORY 9: Butte active mine area. Scott Payne of CTEC suggests that the restoration plan would benefit from additional information on the operation and future reclamation requirements of the large active mines in the Butte area. (See letter 3P and hearing comment PH-1.)

RESPONSE: The NRDP will add more summary information about Montana Resource's active mine operations and future reclamation requirements to section 7.6 on the Butte area subwatershed. Since conducting a detailed analysis of how the active mine operations may influence future restoration efforts is outside the scope of this document, the NRDP will recognize this analysis as a data gap to table 7-39 and in section 7.6.10 on data gaps.

CATEGORY 10: Data on high quality resources. Scott Payne of CTEC requests clarification on how data in section 4.0 and 8.2 was used to select preservation/protection of existing resources as the top priority for restoration efforts within the watershed. Additional clarification is requested regarding whether conservation easements fall under the general category of

preservation/protection of existing resources. The commenter suggests recognizing that identifying areas of high quality resources involves some level of professional and administrative judgment. (See letter 3I and hearing comment PH-1.)

RESPONSE: The focus group meetings provided a major source of information regarding quality fish and wildlife habitat areas. This information source is cited in the public comment summary tables provided for each subwatershed characterization in Chapter 7. The focus group input included information from area fisheries and wildlife biologists. Other major sources of information were the fisheries studies and wildlife habitat database that are acknowledged in fishery and wildlife sections of Chapter 7 for each subwatershed. The reliance on data sources and information provided in Chapter 7 to prioritize restoration needs is reflected in Chapter 4.0 on prioritization methods and Chapter 8.0 on ranking results. Easements and acquisitions are both indicated as ways to preserve/protect high quality resources for the applicable restoration needs that fall into this category. A sentence that recognizes the role of best professional judgment in the prioritization ranking process will be added to the appropriate sections of both these chapters. The sentence in section 8.2 about the potential role of easements and acquisitions to help preserve and protect existing wildlife resources will be expanded to include fisheries resources.

CATEGORY 11: Coordination with TMDL Planning. Scott Payne of CTEC cautions against relying on TMDLs to provide the detailed assessment and planning required to meet the long-term vision of the restoration plan as is suggested in section 6.11.2. (See letter 3L and hearing comment PH-1.)

RESPONSE: The sentence in 6.11.2 that states, “Likewise, results of TMDL development **will** aid in conceiving specific restoration projects aimed at improving water quality, instream habitat, and riparian condition” will be changed to, “Likewise, results of TMDL development **may** aid in conceiving specific restoration projects aimed at improving water quality, instream habitat, and riparian condition.”

CATEGORY 12: DuPont Explosives facility. Scott Payne of CTEC explains that the Dupont Explosive Facilities referenced as a Deferred Priority and discussed in section 7.7.8 consisted of approximately a 10’ by 10’ pile of waste. (See letter 3C and hearing comment PH-1.)

RESPONSE: A January 2005 remedial action report provided by DuPont to the NRDP after issuance of the draft plan indicates that DuPont conducted a voluntary cleanup of this facility. The cleanup involved removal of 2,688 tons of mine tailings, 3,478 tons of contaminated soils, and 222 tons of DNT/TNT contaminated soil and debris from various locations over the 200-acre manufacturing site. The DuPont document did not include a reference to a 10’ by 10’ waste pile. This new information regarding investigation and cleanup of the facility will be added to section 7.7.8 of the final work plan. Based on the additional information provided in DuPont’s report, the NRDP will delete the reference to the need for data on this facility in table 7-45 and the site will be deleted from this list of deferred priorities.

CATEGORY 13: Warm Springs Ponds. Scott Payne of CTEC suggests that the plan recognize the interim nature of the Warm Springs Ponds Record of Decision and the possibility that a long-term remedy for Warm Spring Ponds would involve removing the ponds once upstream remedy work is completed. (See letter 3M and hearing comment PH-1.)

RESPONSE: Section 7.2.9 of the plan discusses the reconfiguration of connections between Mill Creek, Willow Creek, the Mill-Willow By-Pass, Silver Bow Creek, Warm Springs Ponds, and the Clark Fork River; the associated restoration need #3 (table 7-14 and executive summary table) notes the need to investigate the ultimate fate and the implications of this reconfiguration via the final remedy determination process. The sentence indicating a “consensus” preference to keep the ponds wet to minimize contaminant releases and continue to provide fish and wildlife habitat will be changed to indicate a “majority” preference. The texts in tables for restoration need #3 will also be modified accordingly. The question of whether removal of the Warm Spring Ponds is an optimal remedy will be added to the bulleted list in this section of questions raised by the public pertinent to this reconfiguration issue.

CATEGORY 14: Information on weed mapping, water rights, aspen groves and stored water. Scott Payne of CTEC comments on these four topics. (See letters 3J, 3N, 3O, and 3Q and hearing comment PH-1.)

COMMENT: The commenter notes that the noxious weed inventory data mentioned in section 6.7.5 from the MT Noxious Weed Trust Fund is rough estimate of infestation. (See letter 3J and hearing comment PH-1.)

RESPONSE: Section 6.7.5 already has a sentence about this inventory that states, “This data is only suitable for identifying general areas of weed infestation.” Thus, no changes will be made from this comment.

COMMENT: The commenter notes the need to evaluate water rights in terms of baseflow in streams for the months of July through October instead of in terms of the DNRC water rights database. (See letter 3N and hearing comment PH-1.)

RESPONSE: The NRDP acknowledges the limitations of the water rights database, however, insufficient information is available on flows to provide the suggested analyses. The need for such information is recognized repeatedly in the plan. A paragraph will be added to Chapter 4.0 (methods) to explain the use and limitations of the water rights database in the plan.

COMMENT: The commenter notes the headwaters of the Silver Bow Creek include a significant amount of acreage with aspen-dominated habitat and suggests protecting aspen groves in the watershed. (See letter 3O and hearing comment PH-1.)

RESPONSE: The prioritization process gives the highest priority to two general categories of restoration needs, that of preservation/protection of existing resources and pollution mitigation. The importance of protecting/preserving high quality resources is covered adequately in the prioritization scheme and discussion provided in chapter 8. Thus, no changes will be made because of this comment.

COMMENT: The commenter suggests that recreation benefits associated with stored water needs should be considered in addition to agricultural benefits and recommends a consistent approach for evaluating water storage and its benefits be applied in the restoration plan. These comments are directed at text in section 7.7.2 regarding water storage studies in Browns Gulch. (See letter 3Q and hearing comment PH-1.)

RESPONSE: The discussion provided in section 7.7.2 accurately reflects the water storage studies conducted in Brown's Gulch and the NRDP's conclusions regarding those studies as reflected in the *2004 Final UCFRB Restoration Work Plan*. That plan also indicates that if further information indicates Browns Gulch has high fishery values and there is a need for restoration, then further evaluation of water storage potential in light of those results can be subject of future grant request. A similar sentence will be added to section 7.7.2 of the *Silver Bow Creek Watershed Restoration Plan* that recognizes such a possibility.

The plan prioritizes general restoration needs, not the specific projects that might meet those needs. Moreover, the criteria set forth in the *RPPC* are consistently applied to all natural resource damage grant proposals and will similarly be applied to assessing the full benefits and costs of any water storage proposals.

CATEGORY 15: Spending policy. Scott Payne of CTEC suggests that only interest returns on the settlement dollars should be spent on restoration projects contrary to what is suggested on page 176 (second full paragraph). (See letter 3S and hearing comment PH-1.)

RESPONSE: The NRDP could not find the specific reference to spending policy in the draft work plan or earlier versions of the pre-draft work plan. Since the NRDP's spending policy is outside the scope of this document and more pertinent to the *RPPC*, no changes will be made in the plan from comment.

Appendix 1:

Public Comments Received on the Draft Silver Bow Creek Watershed Restoration Plan

Public Comment Period:
January 7, 2005 to March 11, 2005

Available Upon Request from the NRDP

LIST OF COMMENT LETTERS

LETTER NO.	ORGANIZATION	AUTHOR	DATE
1	U.S. Forest Service, Beaverhead – Deerlodge National Forest, Butte & Jefferson Ranger Districts	Timothy J La Marr	2/28/2005
2		Dr. John Ray	2/1/2005
3	CTEC	Scott Payne	1/31/2005
4	GGTU	Pat Munday	2/1/2005

LIST OF ORAL COMMENTS AT PUBLIC HEARING

COMMENT NO.	ORGANIZATION	COMMENTOR	DATE
PH-1	CTEC	Scott Payne	2/1/2005
PH-2		Jerry Harrington	2/1/2005
PH-3	GGTU	Pat Munday	2/1/2005

PUBLIC COMMENT SUMMARY TABLE

CATEGORY 1: Support of the Plan	Letter 3A; Public Hearing (PH) Comment PH-1, PH-2A
CATEGORY 2: Native species information and prioritization	Letters 1, 4
CATEGORY 3: Butte urban area	Letter 2B; PH-2A, PH-3A
CATEGORY 4: Relationship between the plan and funding decisions	Letter 2A
CATEGORY 5: Authentic restoration	PH-3B
CATEGORY 6: Document length, format, and flexibility	Letters 3B, 3D, 3E, 3F, 3R; PH-1
CATEGORY 7: Silver Bow Creek watershed group and website links	Letters 3G, 3H;PH-1
CATEGORY 8: Small scale projects	Letter 3K; PH-1
CATEGORY 9: Butte active mine area	Letter 3P; PH-1
CATEGORY 10: Data on high quality resources	Letter 3I; PH-1
CATEGORY 11: Coordination with TMDL Planning	Letter 3L; PH-1
CATEGORY 12: DuPont Explosives facility	Letter 3C; PH-1
CATEGORY 13: Warm Springs Ponds	Letter 3M; PH-1
CATEGORY 14: Information on weed mapping, water rights, aspen grove, and stored water	Letters 3J, 3N, 3O, 3Q; PH-1
CATEGORY 15: Spending policy	Letter 3S; PH-1